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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWA Docket No. 05-0004
)	
SANDRA L. SMITH, an individual;)	
KENNETH R. SMITH, an individual; and)	
WESA-A-GEH-YA ZOO, a Missouri)	
nonprofit corporation,)	
)	CONSENT DECISION AND
Respondents.)	ORDER

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondents willfully violated the Animal Welfare Act and the regulations and standards issued pursuant to the Act (9 C.F.R. § 1.1 et seq.). This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

The respondents admit the jurisdictional allegations in the complaint and specifically admit that the Secretary has jurisdiction in this matter, neither admit nor deny the remaining allegations, waive oral hearing and further procedure, and consent and agree, for the purpose of settling this proceeding, to the entry of this decision.

The complainant agrees to the entry of this decision.

Findings of Fact

1. Sandra L. Smith is an individual whose mailing address is 36219 State Road A, Warrenton, Missouri 63383, and at all times mentioned herein was operating as an exhibitor, as that term is defined in the Act and the Regulations, and held Animal Welfare Act license number

43-C-0196 issued to "SANDRA & KENNETH SMITH DBA: WESA-A-GEH ZOO." On December 17, 2003, said respondent voluntarily surrendered Animal Welfare Act license number 43-C-0196.

Respondent S. Smith is also the president and chairman of respondent Wesa-A-Geh-Ya Zoo, and directed, managed and controlled its business activities.

2. Kenneth R. Smith is an individual whose mailing address is 36219 State Road A, Warrenton, Missouri 63383, and at all times mentioned herein was operating as an exhibitor, as that term is defined in the Act and the Regulations, and held Animal Welfare Act license number 43-C-0196 issued to "SANDRA & KENNETH SMITH DBA: WESA-A-GEH ZOO." On December 17, 2003, said respondent voluntarily surrendered Animal Welfare Act license number 43-C-0196.

Respondent K. Smith is also the secretary and treasurer of respondent Wesa-A-Geh-Ya Zoo, and directed, managed and controlled its business activities.

3. Wesa-A-Geh-Ya Zoo is a Missouri domestic nonprofit corporation whose agent for service of process is Sandra Smith 36219 State Road A, Warrenton, Missouri 63383. At all times mentioned herein, said respondent was operating as an exhibitor, as that term is defined in the Act and the Regulations, and held between 33-53 wild or exotic felids, between 4-11 wild or exotic canines, and at least one bear.

4. APHIS personnel conducted inspections of respondents' facilities, records and animals for the purpose of determining respondents' compliance with the Act, Regulations, and Standards on July 19, 2001, October 30, 2001 (58 animals), May 29, 2002, September 4, 2002,

October 7, 2002 (64 animals), October 11, 2002, December 3, 2002, February 11, 2003, June 16, 2003, August 13, 2003, and October 30, 2003.

Conclusions of Law

The respondents having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, such decision will be entered.

Order

1. Respondents, their agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Animal Welfare Act and the regulations and standards issued thereunder.

2. Respondents Sandra L. Smith, Kenneth R. Smith, and Wesa-A-Geh-Ya Zoo are jointly and severally assessed a civil penalty in the amount of \$13,000, of which \$7,500 shall be held in abeyance in accordance with the provisions set forth paragraph 3 of this order. The remaining \$5,500 shall be paid in full, and received by counsel for complainant at the address below, on or before Wednesday, **February 28, 2007**. Respondents' civil penalty payment(s) shall be made by certified check(s) or money order(s) made payable to the Treasurer of United States that include the notation "AWA Docket No. 05-0004," and shall be sent to:

Bernadette R. Juarez
United States Department of Agriculture
Office of the General Counsel
Marketing Division
1400 Independence Avenue, S.W., Stop 1417
Room 2343-South Building
Washington, DC 20250-1417

3. If respondents fail comply with the payment terms in paragraph 2 of this order,


respondents shall be assessed the entire outstanding balance of the civil penalty, including the portion of the civil penalty held in abeyance as described above in paragraph 2, without further procedure. Respondents agree to a prospective waiver of any right to notice and opportunity for a hearing pursuant to section 19 of the Act (7 U.S.C. § 2149) as to any such failure to comply with paragraph 2.


4. This Court specifically retains jurisdiction of this matter to enforce the terms of the agreed consent order. If respondents fail to comply with the provisions in paragraph 2 of this order, this Court, upon a motion by complainant, shall issue a default order against Sandra L. Smith, Kenneth R. Smith, and Wesa-A-Geh-Ya Zoo and grant to complainant the relief specified in paragraph 3 of this order.

5. Animal Welfare Act license number 43-C-0196 is hereby revoked.

The provisions of this order shall become effective on the first day after service of this decision on the respondents.

Copies of this decision shall be served upon the parties.



Sandra L. Smith
Respondent


Kenneth R. Smith
Respondent

WESA-GEII-YA ZOO



Respondent

by its Attorney


Bernadette R. Juarez
Attorney for Complainant


Robert L. DeVoto
Attorney for Respondents

Done at Washington, D.C.
this 18th day of ~~February~~ ^{March}, 2006


Marc R. Hillson
Chief Administrative Law Judge